

**MINUTES  
URBAN COUNTY PLANNING COMMISSION  
ZONING ITEMS PUBLIC HEARING**

**October 28, 2010**

- I. **CALL TO ORDER** – The meeting was called to order at 1:32 p.m. in the Council Chamber, 2<sup>nd</sup> Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Patrick Brewer; Mike Cravens; Mike Owens; Derek Paulsen; Carolyn Richardson, Chair; Lynn Roche-Phillips (arrived at 2:06 p.m.); and William Wilson. Absent were Eunice Beatty, Carla Blanton, Marie Copeland, and Ed Holmes.

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; and Stephanie Cunningham. Other staff members present were: Logan Askew and Rochelle Boland, Department of Law; Tim Queary, Urban Forester; Chuck Saylor, Division of Engineering; Firefighter Allen Case and Captain Charles Bowen, Division of Fire and Emergency Services; Bob Carpenter, Division of Building Inspection; and Jeff Neal, Division of Traffic Engineering.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Brewer, seconded by Mr. Wilson, and carried 6-0 (Beatty, Blanton, Copeland, Holmes, and Roche-Phillips absent) to approve the minutes of the September 9, 2010, and September 23, 2010, meetings.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **JAMES WALLER ZONING MAP AMENDMENT & BOBBIE E. & SYLVIA WALLER PROPERTY ZONING DEVELOPMENT PLAN**

- a. MAR 2010-9: JAMES WALLER (10/31/10)\* – petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Wholesale and Warehouse Business (B-4) zone, for 2.52 net (2.73 gross) acres, for property located at 1528, 1532 and 1534 North Limestone.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 2) recommends Medium Density Residential (MD) land use for the subject properties. However, the Plan also denotes (with an asterisk) that this is an “area of special consideration.” The Plan further states that “mixed use with office and limited neighborhood retail should be considered as part of the Central Sector Small Area Plan.” The petitioner proposes to redevelop the property and construct warehouses and shops of special trade on the subject properties.

The Zoning Committee Recommended: **Referral to the full Commission.**

The Staff Recommends: **Disapproval**, for the following reasons:

1. The requested rezoning to a Wholesale and Warehouse Business (B-4) zone cannot be found to be in agreement with the 2007 Comprehensive Plan, or the Central Sector Small Area Plan (an adopted element of the 2007 Comprehensive Plan), for the following reasons:
  - a. The 2007 Comprehensive Plan recommends Medium Density Residential (MD) land use, defined as 5-10 dwelling units per net acre, for the subject property with a note that further states that “mixed use with office and limited neighborhood retail should be considered as part of the Central Sector Small Area Plan.”
  - b. The subject properties are located within Sub-Area D of that Small Area Plan, and North Limestone has been designated as a “neighborhood connector” corridor within this particular area. In fact, the properties facing North Limestone are part of a “focus area,” with the intersection of North Limestone and New Circle Road being a major gateway into the Central Sector.
  - c. The Small Area Plan identifies six Sub-Area priorities, one of which is to “retain unique character of North Limestone as a traditional neighborhood retail corridor” and also indicates a need to upgrade the North Limestone streetscape and building façades.
  - d. The proposed B-4 zoning and use of the subject properties is not for retail, office or residential use, and will not be neighborhood-oriented; thus, it cannot be said to be in agreement with the Comprehensive Plan or the Central Sector Small Area Plan.
2. The proposed Wholesale and Warehouse Business (B-4) zone is inappropriate for the subject property because:
  - a. The type of truck traffic associated with warehouses and shops of special trade (i.e., general contractors, plumbers, painters, major auto and truck repair) is too intense for this “neighborhood connector” corridor.
  - b. The adopted Plans have provided guidance for redevelopment that will support this *unique retail corridor*, rather than business uses that are more intense than those anticipated as part of the redevelopment along North Limestone.
  - c. The B-4 zone is generally not considered an adequate buffer between single family and other business uses, and this case is no exception.

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\* - Denotes date by which Commission must either approve or disapprove request.

- d. While the B-3 zoning in this area allows higher intensity uses, the immediate area has developed with mostly professional office and neighborhood business retail uses oriented along North Limestone. Therefore, in comparison, the warehouses and shops of special trade proposed will significantly increase the intensity of use in the area, rather than act as a transition to the existing single family neighborhoods to the south and east along Rosemary Avenue and Loneta Street.
  3. The existing Single Family Residential (R-1C) zone remains appropriate at this location, as the current density for the subject properties is, technically, in keeping with the residential recommendation of the 2007 Comprehensive Plan.
  4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in early 2007, or since April 2009 when the Central Sector Small Area Plan was adopted as an element of the Comprehensive Plan, that would support an argument for B-4 zoning for the subject properties.
- b. ZDP 2010-49: BOBBIE E. & SYLVIA WALLER PROPERTY (10/31/10)\* - located at 1528, 1532 and 1534 North Limestone.  
**(Vision Engineering)**

Note: The following plan was postponed at the September 23, 2010, Planning Commission meeting.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm sewers, sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Complete the adjacent property owner information.
8. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
9. Discuss proposed access to this site.
10. Discuss the need for Limestone Street improvements.
11. Discuss streetscape relative to "Gateway Concept" outlined in the Central Sector Small Area Plan.
12. Discuss the need for tree protection for the significant tree (i.e., 36" Elm tree).
13. Discuss the parking relative to the overhead doors and indoor spaces (if any).
14. Discuss the need for internal sidewalk connections.

Petitioner Representation: Bruce Simpson, attorney, was present representing the petitioner. He stated that the petitioner would like to request a one-month postponement in order to allow more time to resolve the detention issues on the property. Mr. Simpson noted that he had notified the president of the nearby neighborhood association of the petitioner's intent to postpone.

Action: A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 6-0 (Beatty, Blanton, Copeland, Holmes, and Roche-Phillips absent) to postpone MAR 2010-9 and ZDP 2010-49 to the November 18, 2010, Planning Commission meeting.

**IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, October 7, 2010, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Eunice Beatty, Marie Copeland and Derek Paulsen. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Chris King, Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Denise Bullock, Jim Duncan and Barbara Rackers, as well as Firefighter Allen Case, Division of Fire & Emergency Services and Rochelle Boland, Law Department. The Committee made recommendations on plans as noted.

#### *General Notes*

*The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.*

1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.
2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.

#### **1. DEVELOPMENT PLANS**

- a. DP 2010-54: CHANCELLOR SUBDIVISION (THE SPRINGS) (AMD.) (12/2/10)\* - located at 2000-2020 Harrodsburg Road and 644 Lane Allen. (Council District 10)  
**(Barrett Partners)**

Note: The purpose of this amendment is to redevelop the property.

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the proposed access, the right-of-way improvements, use restrictions and traffic calming.

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Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire's approval of new access details and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection locations.
10. Denote final record plat designation where applicable.
11. Clarify purpose of amendment note.
12. Denote KYDOT approval for proposed access to Harrodsburg Road.
13. Denote proposed and existing utility easements.
14. Denote access to proposed detention location(s).
15. Denote: No development of Parcels B, C and D until a final development plan is approved and certified.
16. Denote that a consolidation plat will be certified prior to issuance of a building permit on Parcel A.
17. Denote timing of Lane Allen Road median improvements.
18. Discuss proposed access curbing and sidewalk on Mitchell Avenue.
19. Discuss proposed right-in and right-out on Harrodsburg Road.
20. Discuss location of new tree planting (tree canopy) on Parcel A.
21. Discuss adequacy of proposed drive-through separation proposed on Parcel A.
22. Discuss conditional zoning limits and potential B-3 use limitation.
23. Discuss outdoor lighting and signage in relation to residential area.
24. Discuss proposed parking on access aisle from proposed full access point to Parcel A.
25. Discuss need for a deceleration lane on Harrodsburg Road to Lane Allen Road.
26. Discuss traffic calming needs on subject property (cut-through movements).

Staff Presentation: Mr. Martin began the staff's presentation by orienting the Commission to the location of the subject property at the intersection of Harrodsburg Road and Lane Allen Road, across from Turfland Mall. He said that the plan currently before the Commission is a combination final development plan and preliminary development plan. The petitioner proposes to construct a 13,500 square-foot pharmacy, with a drive-through and 70 parking spaces. The proposed parking would exceed the requirement, which is 33 spaces. The petitioner also proposes to maintain the existing full access to Harrodsburg Road nearer the southernmost border of the property, which would allow for left turns onto Harrodsburg Road. In addition, the petitioner is proposing to construct a right-in/right-out access to Harrodsburg Road nearer to the intersection, as well as one right-in/right-out access to Lane Allen Road, and one full access to Mitchell Avenue.

Mr. Martin stated that, in the area of the property that is included in the preliminary development plan, the petitioner is proposing to construct several buildings, with corollary parking and an additional access to Mitchell Avenue.

Mr. Martin said that the staff had had several meetings with the petitioner, including one meeting prior to the filing of this plan, in order to resolve some of their concerns. This plan was initially recommended for postponement by the Subdivision Committee, the Technical Committee, and the staff. Following several subsequent meetings, the petitioner submitted two revised plans. The most recent revision was received by the staff on October 22<sup>nd</sup>. Based on that submission, the staff is now recommending approval of the plan, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire's approval of new access details and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection locations.
- ~~10. Denote final record plat designation where applicable.~~
11. Clarify purpose of amendment note.
12. Denote KYDOT approval for proposed access to Harrodsburg Road.
13. Denote proposed and existing utility easements.
14. Denote access to proposed detention location(s).
- ~~15. Denote: No development of Parcels B, C and D until a final development plan is approved and certified.~~
16. Denote that a consolidation plat will be certified prior to issuance of a building permit on Parcel A.
- ~~17. Denote timing of Lane Allen Road median improvements.~~

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- ~~18. Discuss proposed access curbing and sidewalk on Mitchell Avenue.~~
- ~~19. Discuss proposed right in and right out on Harrodsburg Road.~~
- ~~20. Discuss location of new tree planting (tree canopy) on Parcel A.~~
- ~~21. Discuss adequacy of proposed drive-through separation proposed on Parcel A.~~
- ~~22. Discuss conditional zoning limits and potential Extend B-3 use limitations for all of parcel A, and denote on plan.~~
23. Discuss Denote: Outdoor lighting and signage in relation to residential area for Parcels B, C and D will be resolved at the time a Final Development Plan is proposed for those lots.
24. Discuss Denote: The number of proposed parking spaces on access aisle from proposed full access point to Parcel A will be considered at the time a Final Development Plan is filed for Parcel B.
- ~~25. Discuss need for a deceleration lane on Harrodsburg Road to Lane Allen Road.~~
26. Discuss Specify traffic calming needs details in the general area of the pedestrian crosswalk shown in the 30' access drive on subject property (to discourage cut-through movements).
27. Denote resolution of utility easement conflict with proposed building.

Mr. Martin stated that the petitioner had met several of the original conditions for approval of the plan. With regard to condition #12, Mr. Martin said that, since Harrodsburg Road is a state roadway, KYDOT approval of both of the proposed accesses will be required as a sign-off prior to certification of the plan. With regard to condition #16, the petitioner will be required to file a consolidation plat to consolidate the two properties, one of which was never developed, although it is zoned B-3. The petitioner will also be required to resolve the existing utility easement that runs through the proposed building, which could be accomplished via an encroachment permit or a minor plat to release the easement. Mr. Martin stated that the property line was also the basis for condition #22. When the subject property was rezoned to B-3, the purpose of the rezoning was to add suites to the Springs Motel. At the time, conditional zoning restrictions were placed on the property. Those restrictions, which address accessory uses, adult uses, signage, and lighting, were enumerated on the final development plan portion of the property. The staff is requesting that they be extended to the remainder of Parcel A as well. In addition, the staff is requesting the petitioner to denote that the issues covered by conditional zoning be addressed on Parcels B, C, D at the time of the final development plan. With regard to condition #24, Mr. Martin said that the staff was concerned about the proposed new access to Harrodsburg Road. The staff believes that the two proposed accesses will essentially function as a service road at the front of the property. Parking is normally discouraged on a service road, so the staff is requesting that that issue be considered at the time of the filing of a final development plan for Parcel B. When the original plan was submitted, the staff was concerned that the proposed right-in/right-out access on Harrodsburg Road led directly through the property to Mitchell Avenue; they believed that it would be inappropriate to provide a direct "cut-through" which could be used to avoid the busy Harrodsburg Road/Lane Allen Road intersection. The revised version of the plan includes an offset of the two access points, which the staff believes will help to provide some traffic calming on the property. The staff is concerned, however, that that might not be adequate, so they added condition #26 to require the specification of additional traffic calming to further discourage cut-through movements. Mr. Martin noted that there are several configurations that could provide the desired traffic calming. The addition of condition #26 also helped to alleviate some of the staff's concerns about the function of the proposed drive-through in relation to the overall traffic circulation pattern.

Mr. Martin stated that, throughout their review of the various versions of this plan, the staff has expressed concerns about the proposed access points to Mitchell Avenue. The residents of Mitchell Avenue have also expressed concern about the possibility of additional traffic utilizing those proposed access points, and they submitted a petition in opposition to those accesses, a copy of which was distributed to the Commission members for their review. Mr. Martin said that the Mitchell Avenue residents had included a diagram along with the petition, detailing their preferred configuration of the subject property, which did not include any access to Mitchell Avenue. He noted that the current plan, which is recommended for approval by the staff, does include access to Mitchell Avenue. The staff believes the access is appropriate for the functioning of both the street system and the internal circulation on the site.

Commission Questions: Mr. Cravens asked if either of the access points to Mitchell Avenue depicted on the plan currently exist. Mr. Martin answered that one of the access points currently exists, although the plan proposes to relocate that access closer to the residential area. The proposed new access point would be located in an area that has traditionally been used for on-street parking.

Mr. Owens asked if the proposed parking will be constructed in the area of the service road if this plan is approved. Mr. Martin responded that that parking is not included in the final development plan portion of this plan. Nothing can be permitted or constructed in that portion of the property without the Planning Commission's approval of a final development plan. At that time, staff would also review the configuration of the parking in order to determine its appropriateness.

Mr. Owens asked if the staff had any information about the vacant lot located across Mitchell Avenue from the subject property. Mr. Martin answered that that lot is owned by the owner of the subject property, and it is zoned R-4.

Petitioner Presentation: Tony Barrett, Barrett Partners, was present representing the petitioner. He thanked the staff for their time over the last few weeks as the petitioner has attempted to resolve the layout of the proposed development. He said that there have been many revisions to the plan; and, over the course of those revisions, the petitioner has agreed to utilize the existing entrances to the property, including modifying one of those entrances to right-in/right-out in order to

improve the turning movements at the busy Harrodsburg Road/Lane Allen Road intersection. The petitioner has also agreed to add a median on Lane Allen Road at the intersection, which could help to improve the flow of traffic. With regard to the Mitchell Avenue access points, the petitioner has agreed to offset one of the accesses in order to prevent cut-through traffic. The petitioner is also in agreement with condition #26, which would require additional traffic calming on the property. Mr. Barrett noted that one of the traffic calming devices currently under consideration is a raised crosswalk, which would help to slow traffic as well as accentuate the pedestrian crossing. There are three existing accesses to Mitchell Avenue, which the petitioner is willing to reduce to two. The petitioner is also willing to revise some of the areas where the parking lot is not clearly separated from the street along Mitchell Avenue, as well as install curbs and gutters along the full extent of the property and provide sidewalks.

Mr. Barrett stated that the petitioner is in agreement with the staff's recommendation, including the revised conditions, and he requested approval.

Commission Questions: Mr. Owens asked, with regard to the proposed traffic calming, if the petitioner had considered any traffic calming on Mitchell Avenue. Mr. Barrett answered that that was a major area of concern when the petitioner initially met with the Mitchell Avenue residents several months ago. He noted that Council Member Martin has also had some discussions with the neighbors about the possibility of LFUCG assistance with traffic calming. There is a process in place to initiate neighborhood street improvements, which requires a neighborhood meeting, polling of residents, and attaining a certain percentage of residents in agreement with the proposition. Mr. Barrett said that, when he spoke to Council Member Martin, he learned that funds are not currently available for such a project, but there is a possibility that funding could be available in the next fiscal year if sufficient neighborhood support is present.

Mr. Barrett stated that many of the traffic issues on Mitchell Avenue are not related to the subject property. The petitioner learned at a neighborhood meeting that some of the Mitchell Avenue residents had believed that, when the Springs Motel was in operation, it generated a great deal of cut-through traffic. However, the residents have noticed an increase in such traffic since the demolition of the Springs Motel. Mr. Barrett said that that increase could be due in part to the increased visibility of Mitchell Avenue since the demolition of the Springs Motel structures. The petitioner believes that the number of cut-through trips could be reduced once the property is redeveloped as a pharmacy.

Citizen Opposition: Dr. Patricia Dillon, 644 Mitchell Avenue, stated that she was responsible for the collection and submission of the petition that the staff had distributed to the Commission members. She said that the Mitchell Avenue residents' primary goals were: to protect their residential street by eliminating the access to it from the subject property; and to ensure that their homes are shielded by a landscape buffer from view, light, noise, etc., generated by the proposed use on the subject property. Sixty-two residents of the Mitchell Avenue neighborhood signed the petition.

Dr. Dillon stated that the Mitchell Avenue neighborhood is stable, well-established, and comprised of mostly owner-occupied homes. There is little turnover of the properties on the street, with several residents having lived in their homes for more than 50 years. The residents take pride in their homes, and consistently work to maintain and beautify the neighborhood. Therefore, the residents are concerned about the proposed redevelopment of the subject property. They fear that 24-hour traffic on the subject property will generate significant pollution and traffic disturbance in their neighborhood. Dr. Dillon said that the neighbors are particularly apprehensive that the proposed new accesses to the subject property would provide a means for dangerous cut-through traffic to Mitchell Avenue, since drivers would be able to avoid two busy traffic signals by doing so. High traffic volume and the corresponding high speeds could increase the likelihood of accidents on Mitchell Avenue and endanger children in the area.

Dr. Dillon stated that the Mitchell Avenue residents are concerned about the possibility of diminished property values as well. They fear that, should they decide to sell their homes, they would be unable to find a market for them, since no one wants to live near the service entrance for a commercial development.

In conclusion, Dr. Dillon quoted the following excerpt from the 2007 Comprehensive Plan:

“...preserving, protecting, and maintaining existing residential neighborhoods in a manner that ensures stability and the highest quality of life for all residents.”

Neighborhood residents believe that the proposed redevelopment of the subject property would accomplish the exact opposite of that Goal for the Mitchell Avenue neighborhood. Dr. Dillon asked that the Planning Commission members support their petition by eliminating the proposed accesses to Mitchell Avenue, and requiring an enhanced landscape buffer on the subject property.

Michael Galbraith, 587 Mitchell Avenue, stated that he has resided in his home since 1992. He requested that all of the audience members who were present in opposition to the proposed development raise their hands; several people did so.

Mr. Galbraith asked that the Planning Commission support the Mitchell Avenue residents' petition to block access to their street from the subject property, because they feel strongly that the additional traffic on their street will have adverse impacts on their neighborhood. At a time when many residents across the country are attempting to "take back" their neighborhoods from automobile-oriented development, and return safe standards to their residential streets, it is particularly important for the Planning Commission to support those efforts. Mr. Galbraith asked the Planning Commission members to put themselves in the place of the Mitchell Avenue residents, and not allow their neighborhood to become a traffic access for the proposed commercial development of the subject property by, supporting their petition.

Mary Margaret Heaton stated that she was present representing her mother, Margaret Heaton, who, along with her husband, built their home at 608 Mitchell Avenue in 1949. She said that, when her parents built their home, Mitchell Avenue was a dead-end street. Ms. Heaton noted that Mitchell Avenue was a wonderful place in which to grow up, and she would like to see it remain that way for the children who are growing up there now.

Ms. Heaton stated that, when Mitchell Avenue was opened to traffic, the residents attributed the heavy traffic volume to the location of the Springs Motel nearby. However, when the motel was closed and the structures demolished, the residents noticed that the traffic actually increased, rather than abating, since the subject property was being used as a cut-through. Ms. Heaton asked that the Planning Commission consider the impacts of the proposed development on the Mitchell Avenue residents, and either completely close off Mitchell Avenue to traffic creating a dead end, or eliminate the proposed accesses to the subject property.

*Note: Ms. Roche-Phillips arrived at this time.*

Petitioner Rebuttal: Mr. Barrett stated that the Springs Motel was built in 1948, with 221 rooms, dining facilities, and a bar and lounge. It operated as a 24-hour facility, and Mitchell Avenue was considered a service road for the delivery truck traffic to the hotel. He noted that, while the petitioner has made many revisions to the proposed development plan in order to accommodate the concerns of the neighbors, the petitioner believes that the proposed accesses to Mitchell Avenue are crucial to the success of the proposed redevelopment, particularly the pharmacy. Mr. Barrett requested the approval of the development plan as proposed.

Commission Question: Mr. Owens asked what type of landscape buffering the neighbors had requested along Mitchell Avenue. Mr. Barrett answered that the Zoning Ordinance requires one tree every 40' around the perimeter of the vehicular use area, as well as a continuous hedge. There is also a 5% interior landscaping requirement, which consists of landscape islands and a tree for every 250 square feet of area. Mr. Barrett displayed the proposed landscape plan on the overhead, noting that it included the proposed interior landscaping and perimeter trees, but not the perimeter hedge.

Citizen Rebuttal: Mr. Galbraith stated that, should the Commission choose to approve the proposed development plan, the Mitchell Avenue residents would like to request, as a compromise, that Mitchell Avenue be closed by a dead end in the area between the subject property and the residential area. He noted that, since the petitioner also owns the parcel across the street from the subject property, the dead end could provide a full access area to the subject property while still protecting the nearby residences.

Staff Rebuttal: Mr. Martin stated that the proposed development plan is recommended for approval by the staff, subject to the 19 conditions as listed on the revised recommendation. He noted that the Planning Commission does not have the authority to close Mitchell Avenue; however, the residents could petition the Urban County Council for such an action.

With regard to the residents' requests for traffic calming measures, Mr. Martin stated that there had been several discussions between the staff, the residents, and representatives of the Division of Traffic Engineering; but no specific measures had been decided upon at this time. He reiterated that traffic calming on Mitchell Avenue was not deemed necessary at solely for the development of the proposed pharmacy.

Commission Questions: Mr. Owens asked if the staff would recommend traffic calming when the remaining parcels included on the development plan are developed. Mr. Martin answered that traffic calming would be an appropriate aspect to the review of the final development plan for the remaining portion of the property.

Mr. Paulsen asked if a Traffic Impact Study was done for the proposed redevelopment. Mr. Martin responded that such a study was not required for this level of development. Some unofficial traffic numbers were considered, but the proposed development was not deemed significant enough to require traffic calming at this time.

Ms. Roche-Phillips asked if Parcel A was the only parcel being considered on a final development plan at this time. Mr. Martin answered that that was correct; the other parcels are considered a preliminary development plan. Ms. Roche-Phillips asked if a Traffic Impact Study could be required for the combined development of all four parcels. Mr. Martin responded that, if all three of the remaining parcels were proposed to be developed together, the Commission could require a Traffic Impact Study. Ms. Roche-Phillips asked if the petitioner was proposing to develop the subject property as separate parcels in order to "evade" the requirement of a Traffic Impact Study. Mr. Martin replied that the Commission could require a Traffic Impact Study for the subject property.

Mr. Wilson stated that he agreed with Ms. Roche-Phillips, and would like to recommend the requirement of a Traffic Impact Study when the remainder of the subject property is redeveloped.

Mr. Owens said that he concurred with the recommendation of a Traffic Impact Study upon further development of the property. He noted that he agreed with the staff's recommendation that traffic calming is not necessary at this point in the development, and reiterated that the Mitchell Avenue residents could pursue the closure of Mitchell Avenue as an action of the Council.

Mr. Cravens asked what criterion triggers the requirement of a Traffic Impact Study. Mr. Sallee answered that the Zoning Ordinance requires a Traffic Impact Study for any zone change that generates 100 or more new vehicular trips in either the morning or afternoon peak hour. Mr. Cravens stated that he did not believe it would be appropriate to request a Traffic Impact Study at this time, since the petitioner did not know what types of uses would locate on the remaining three parcels on the subject property. Mr. Cravens asked to which road Mitchell Avenue leads. Mr. Martin answered that Mitchell Avenue leads from Lane Allen Road to Clays Mill Road. Mr. Cravens asked under which street classification Mitchell Avenue falls. Mr. Martin responded that it is a local street.

Ms. Roche-Phillips stated that she did not believe that it was unreasonable to think that the proposed development of the three remaining parcels could generate more than 100 peak-hour trips. She reiterated that she would be in support of the requirement of a Traffic Impact Study.

Mr. Owens stated that he appreciated the Mitchell Avenue residents' attendance at this meeting, and he understood their concerns.

Action: A motion was made by Mr. Owens, seconded by Mr. Wilson, and carried 7-0 (Beatty, Blanton, Copeland, and Holmes absent) to approve DP 2010-54, subject to the 19 conditions as listed in the revised staff recommendation, and adding condition #20 to denote the requirement that a Traffic Impact Study be completed at the time of development of Parcels B, C, or D.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, October 7, 2010, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Mike Cravens, and Ed Holmes. The Committee reviewed applications, and made recommendations on zoning items as noted.

**A. ABBREVIATED PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

**B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS** – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
  - (a) proponents (10 minute maximum OR 3 minutes each)
  - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
  - (a) petitioner's comments (5 minute maximum)
  - (b) citizen objectors (5 minute maximum)
  - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

**Note:** Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

**1. LARE PROPERTIES, LLC, ZONING MAP AMENDMENT & SOUTH GROVE SUBDIVISION, LOT 1, ZONING DEVELOPMENT PLAN**

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\* - Denotes date by which Commission must either approve or disapprove request.

- a. MAR 2010-7: LARE PROPERTIES, LLC (10/31/10)\* - petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Professional Office (P-1) zone, for 0.298 net (0.373 gross) acre, for property located at 1610 - 1612 Harrodsburg Road.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 4) recommends Professional Service (PS) future land use for the subject property. The petitioner proposes reuse of the existing 2-story (2,400 square-foot) building as a medical office building with associated off-street parking.

The Zoning Committee Recommended: **Approval**, for the reason provided by staff.

The Staff Recommends: **Approval**, for the following reason:

1. The requested Professional Office (P-1) zone is in agreement with the 2007 Comprehensive Plan's recommendation for a Professional Services future land use for the subject property.
2. This recommendation is made subject to the approval and certification of ZDP 2010-47: South Grove Subdivision, Lot 1, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. ZDP 2010-47: SOUTH GROVE SUBDIVISION, LOT 1 (10/31/10)\* - located at 1610 and 1612 Harrodsburg Road.  
**(Midwest Engineering)**

Note: The following plan was postponed at the September 23, 2010, Planning Commission meeting.

The Subdivision Committee Recommended: **Postponement**. There were questions regarding the lack of floodplain information on the plan, the need for a special use permit for paved off-street parking areas, and the property owners involved on this plan.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property P-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Clarify ownership of all three properties (and revise application materials, if necessary).
9. Addition of dimensions for driveways, walkways and parking area.
10. Addition of proposed and existing easements.
11. Correct property addresses to match addresses per LFUCG GIS mapping.
12. Addition of maintenance responsibility note for parking and access, per Article 5-4(h) of the Land Subdivision Regulations.
13. Remove "existing asphalt" from portions of Lot 1 to meet the minimum requirements of Article 18 of the Zoning Ordinance.
14. Discuss the entrance / exit at 1614 Harrodsburg Road.
15. Discuss the timing of the special permit use for the parking in the floodplain.
16. Discuss extent of Final Development Plan (and clarify plan boundary with full metes and bounds description, if necessary).

Zoning Report: Ms. Wade presented the staff report for this zone map amendment request, briefly orienting the Commission to the location of the subject property. She stated that the subject property is currently surrounded by P-1 zoning and uses to the north and south; St. Joseph Hospital to the northeast; B-1 zoning across Harrodsburg Road on Shaker Drive; and the Oaks and Oakwood subdivision, which is zoned R-1C, to the rear. Also in the vicinity are a fire station and Picadome Elementary School.

Ms. Wade said that the petitioner is proposing to maintain the existing structure on the subject property for use as a medical office building, and to share a common parking area with the two adjacent parcels. The 2007 Comprehensive Plan recommends Professional Service land use for the subject properties. The staff is recommending approval of this rezoning request, because the proposed zoning is in agreement with the Comprehensive Plan.

Commission Question: Mr. Owens asked why the one building on the subject property currently has two addresses. Ms. Wade answered that the building has two addresses because it has been used as a duplex.

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Development Plan Presentation: Mr. Martin presented the corollary preliminary development plan, noting that the staff had distributed a revised staff recommendation to the Commission members prior to the start of the hearing.

Mr. Martin stated that there is a final development plan on record for Lot 2 of the proposed development, which refers to a previous zone change on that property. The proposed preliminary development plan encompasses three properties. Mr. Martin noted that there is an extensive floodplain area on the subject property, due to the location of a creek behind the property with a significant grade change. The construction of Harrodsburg Road acted as a kind of dam in the area, resulting in the large floodplain areas. The proposed development plan was originally submitted as a final development plan, which caused some concerns for the staff, who recommended that it be changed to a preliminary plan in order to allow the petitioner to address the floodplain on the property. Those concerns were somewhat complicated by the location of some paving of a parking lot on the subject properties, which was undertaken without the appropriate permits. In order for parking to be approved in a floodplain area, a special permit is required from the Division of Engineering to control the grading of the site so that properties downstream will not be affected by additional flooding. The staff requested that the petitioner address those issues, and was recently informed that the appropriate information was submitted to the Division of Engineering in an attempt to rectify that oversight. The staff has also requested that the petitioner correct the note on the plan that refers to the parking in the floodplain. Mr. Martin noted that, since this is a preliminary development plan, the petitioner will be required to submit a final development plan. The note on this plan states that the petitioner will not be able to certify a final development plan for the property until the special permit is received for the parking lot.

Mr. Martin stated that the remainder of the conditions for the approval of this development plan, as listed in the revised staff recommendation, refer primarily to clean-up and correction issues. With regard to condition #12, Mr. Martin noted that the staff has requested that the petitioner remove "existing asphalt" from a portion of Lot 1 in order to meet the requirements of Article 18 of the Zoning Ordinance. Condition #12 refers to the removal of a former residential driveway on the property, and corollary changes to the parking lot layout in order to enhance public safety in the area. Mr. Martin stated that the staff is recommending approval of this plan, subject to the 17 conditions as listed in the revised staff recommendation.

Commission Question: Mr. Owens asked if the petitioner will be required to have the special permit for parking in hand prior to certification of a final development plan for the subject property. Mr. Martin answered that that was correct, and noted that the Zoning Ordinance allows such special parking permits to be issued by the Division of Engineering, provided that the existing grade is maintained within the floodplain.

Petitioner Representation: Tommy Todd, attorney, was present representing the petitioner. He stated that the petitioner is a dermatologist, who currently operates her practice in two of the buildings that are located on the subject property. The petitioner now proposes to renovate the third structure in order to expand her practice. Mr. Todd stated that the petitioner is in agreement with the staff's recommendations.

Tom Lambdin, Midwest Engineering, stated that the petitioner has worked closely with several divisions of the Urban County Government in order to resolve the issues on the subject property. He said that the petitioner is in agreement with the staff's recommendations, and he requested approval.

Citizen Comment: No citizens were present to discuss this request.

Zoning Action: A motion was made by Mr. Brewer, seconded by Mr. Cravens, and carried 7-0 (Beatty, Blanton, Copeland, and Holmes absent) to approve MAR 2010-7, for the reason provided by staff.

Development Plan Action: A motion was made by Mr. Brewer, seconded by Mr. Cravens, and carried 7-0 (Beatty, Blanton, Copeland, and Holmes absent) to approve ZDP 2010-47, subject to the 17 conditions as listed in the revised staff recommendation.

*Note: Chairwoman Richardson declared a brief recess at 2:40 p.m. The meeting reconvened at 2:45 p.m.*

## **2. URBAN COUNTY PLANNING COMMISSION ZONING MAP AMENDMENT**

- a. MAR 2010-10: URBAN COUNTY PLANNING COMMISSION - petition for a zone map amendment to a Neighborhood Design Character Overlay (ND-1) zone for 53.7± net (67.5± gross) acres, for properties located at 601-821 Cooper Drive; 1212-1251 Eldemere Road; 1203-1304 Kastle Road; 600-818 Montclair Drive; 1213-1283 Scoville Road; 1200-1252 Summit Drive; and 1500-1600 Tates Creek Road (even addresses only).

### **Proposed Design Standards:**

#### **1. Exterior Building Materials**

- a. Allowable exterior finish building materials are brick, stone, cementitious fiberboard siding, or natural wood. All other materials are prohibited.

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2. **Roof Lines and Shape**
  - a. Roof Pitch: Minimum 7:12 slope for Gabled Primary Roofs (excludes dormers, single-story flat roofs, roofs built to match existing roof pitches, and allowable projections per Article 15-5 of the Zoning Ordinance) for principal and accessory structures.
3. **Landscaping Requirements**
  - a. No front yard fences or walls allowed, except for properties facing Cooper Drive and Tates Creek Road. Permitted fences may be up to 4 feet in height and a minimum of 2 feet from the sidewalk, parallel to the public right-of-way. Front yard hedges are also limited to 4 feet in height.
  - b. Allowable wall/fence materials include, but are not limited to: brick; stone; wood and iron. Chain link fences are prohibited.
4. **Minimum Window/Door Openings**
  - a. Minimum of 10 percent (10%) of the wall plane on each elevation of new construction is to be windows, doors, and/or vented openings; however, no openings shall be required if Building Code requires Fire Ratings (excludes any new construction with a wall plane area of less than 150 square feet, chimneys, and side wall dormers).
  - b. No exterior accessory steps or stairs are allowable to doors or windows above the ground floor.
5. **Front Building Features**
  - a. Main entry door must face primary street.
6. **Garages**
  - a. Garages must be set back a minimum of 10 feet from the front building plane.
  - b. Maximum building footprint of 800 square feet for all accessory structures per lot. Maximum 22-foot height to roof ridge, maximum 12-foot height to eave (aka gutter line). No exterior stairs shall be permitted. Maximum 50 percent of roof square footage allowed to be shed dormer (eave height measured at top of fascia board and does not apply to dormers).
7. **Lot Widths**
  - a. The minimum width on all lots for Summit Drive, Eldemere Road and Tates Creek Road is 70 feet at the building line.
8. **Building Height**
  - a. Maximum of 30 feet or 35 feet to highest ridge line depending on property location. Properties on Kastle, Scoville, Cooper (601-663, 702 & 714), Montclair (600-666 & 705) are at a 30-foot height limit, while all properties east on Summit, Eldemere, Tates Creek, Cooper (705-821, excluding 702 & 714), and Montclair (700-818, excluding 705) are at a 35-foot height limit. (New additions may exceed 30 feet or 35 feet, depending on height zone, in order to match existing ridge line; provided they do not exceed 30 feet or 35 feet at the mid-gable, depending on height zone.)
  - b. Additions may not exceed the height of the principal structure.
9. **Building Setbacks**
  - a. The minimum and maximum front setbacks for each street are:
    - i. Montclair Drive 25 – 35 feet
    - ii. Cooper Drive 30 – 40 feet
    - iii. Scoville Road 35 – 45 feet
    - iv. Kastle Road 35 – 45 feet
    - v. Summit Drive 40 – 50 feet
    - vi. Eldemere Road 45 – 55 feet
    - vii. Tates Creek Road 60 – 70 feet
10. **Rear Yard Building Setbacks**
  - a. Maximum building dimension from the front building plane is 55 feet.
11. **Off-street Parking Design**
  - a. Front yard parking is prohibited except for Tates Creek Road and Cooper Drive. Allowable front yard parking on these streets must not exceed 120 square feet in area. Loose aggregate or other gravel is prohibited.

All driveways may be a maximum of 10 feet wide up to the front building plane, except circular driveways, which can be a maximum of 12 feet (circular driveways and turnarounds must have foliage of a minimum 3-foot height planted on the street side of the driveway to shield the pavement from street view).

#### LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 3) recommends Low Density Residential (LD) land use for the entire neighborhood. The Planning Commission has initiated a zone change request to add a Neighborhood Design Character Overlay (ND-1) zone in order to regulate exterior building materials, roof pitch, landscaping requirements, building openings, front building features, garages, lot widths, building height, front and rear yard building setbacks, and off-street parking design regardless of the underlying zoning.

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The Zoning Committee Recommended: **Approval of the ND-1 overlay zone with the Staff Alternative Design Standards as amended by the Committee as follows** (changes proposed by the Committee are italicized), for the reasons provided by staff.

**1. Exterior Building Materials**

Allowable exterior finish building materials are brick, stone, cementitious fiberboard siding, or natural wood (*excludes windows and doors and their respective frames*). All other materials are prohibited.

**6. Garages & Accessory Structures**

- a. Garages must be set back a minimum of 10 feet from the front building plane.
- b. Maximum building footprint of 800 square feet for all accessory structures per lot. Maximum 22-foot height to roof ridge, maximum 12-foot height to eave (aka gutter line) (*roof height measured from finished garage floor*). No exterior stairs shall be permitted above the ground floor. Maximum 50 percent of roof square footage allowed to be shed dormer (eave height measured at top of fascia board and does not apply to dormers).

**10. Rear Yard Building Setbacks**

- a. Maximum building dimension of the principal structure from the front building plane is 55 feet.

The Staff Recommended: **Approval of the ND-1 overlay zone with the Staff Alternative Design Standards**, for the following reasons:

1. The requested Neighborhood Design Character (ND-1) overlay zone is in agreement with the 2007 Comprehensive Plan for the following reasons:
  - a. The Goals & Objectives of the Plan identify eight overriding themes, one of which is "preserving, protecting, and maintaining existing residential neighborhoods in a manner that ensures stability and the highest quality of life for all residents." This will be enhanced with this rezoning for Montclair. Further, Goal 15, Objective I states that neighborhood protection overlay zoning provisions should be implemented for establishing stability and protection in existing and, especially, older neighborhoods.
  - b. The implementation of a Neighborhood Design Character (ND-1) overlay zone is in agreement with the Comprehensive Plan's Goals & Objectives by providing specific standards that will maintain the existing character of the neighborhood, independent of the underlying zoning.
  - c. The Montclair neighborhood has completed a design character study, defined the existing character of the neighborhood, developed preservation goals, and proposed appropriate neighborhood design standards (in need of only slight modification), thus meeting the requirements of the ND-1 zone.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:

**Alternative Design Standards** (Additions are identified by an underline, and deletions are identified by a ~~strikethrough~~.)

**1. Exterior Building Materials**

- a. Allowable exterior finish building materials are brick, stone, cementitious fiberboard siding, or natural wood (*excludes windows and doors*). All other materials are prohibited.

**2. Roof Lines and Shape**

- a. Roof Pitch: Minimum 7:12 slope for Gabled Primary Roofs (*excludes dormers, single-story flat roofs, roofs built to match existing roof pitches, and allowable projections per Article 15-5 of the Zoning Ordinance*) for principal and accessory structures.

**3. Landscaping Requirements**

- a. No front yard fences or walls allowed, except for properties facing Cooper Drive and Tates Creek Road. Permitted fences may be up to 4 feet in height and a minimum of 2 feet from the sidewalk, parallel to the public right-of-way. ~~Front yard hedges are also limited to 4 feet in height.~~
- b. Allowable wall/fence materials include, but are not limited to: brick; stone; wood and iron. Chain link fences are prohibited.

**4. Minimum Window/Door Openings**

- a. Minimum of 10 percent (10%) of the wall plane on each elevation of new construction is to be windows, doors, and/or vented openings; however, no openings shall be required if Building Code requires Fire Ratings (*excludes any new construction with a wall plane area of less than 150 square feet, chimneys, and side wall dormers*).
- b. No exterior accessory steps or stairs are allowable to doors or windows above the ground floor.

**5. Front Building Features**

- a. Main entry door must face ~~primary~~ a public street.

**6. Garages**

- c. Garages must be set back a minimum of 10 feet from the front building plane.
- d. Maximum building footprint of 800 square feet for all accessory structures per lot. Maximum 22-foot height to roof ridge, maximum 12-foot height to eave (aka gutter line). No exterior stairs shall be

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permitted above the ground floor. Maximum 50 percent of roof square footage allowed to be shed dormer (eave height measured at top of fascia board and does not apply to dormers).

**7. Lot Widths**

- a. The minimum width on all lots for Summit Drive, Eldemere Road and Tates Creek Road is 70 feet, as measured at the building line.
- b. The maximum width on all lots except corner lots for Summit Drive, Eldemere Road and Tates Creek Road is 100 feet, as measured at the building line.

**8. Building Height**

- a. Maximum of 30 feet or 35 feet to highest ridge line depending on property location. Properties on Kastle, Scoville, Cooper (601-663, 702 & 714), Montclair (600-666 & 705) are at a 30-foot height limit, while all properties east on Summit, Eldemere, Tates Creek, Cooper (705-821, excluding 702 & 714), and Montclair (700-818, excluding 705) are at a 35-foot height limit. (New additions may exceed 30 feet or 35 feet, depending on height zone, in order to match existing ridge line; provided they do not exceed 30 feet or 35 feet at the mid-gable, depending on height zone.)
- b. Additions may not exceed the height of the principal structure.

**9. Building Setbacks**

- a. The minimum and maximum front setbacks for each street are:
  - i. Montclair Road ~~25 – 35~~ 30 – 35 feet
  - ii. Cooper Drive 30 – 40 feet
  - iii. Scoville Road 35 – 45 feet
  - iv. Kastle Road 35 – 45 feet
  - v. Summit Drive 40 – 50 feet
  - vi. Eldemere Road 45 – 55 feet
  - vii. Tates Creek Road 60 – 70 feet

**10. Rear Yard Building Setbacks**

- b. Maximum building dimension from the front building plane is 55 feet.

**11. Off-street Parking Design**

- a. Front yard parking is prohibited except for Tates Creek Road and Cooper Drive. Allowable front yard parking on these streets must not exceed 120 square feet in area. ~~Loose aggregate or other gravel is prohibited.~~
- b. All driveways may be a maximum of 10 feet wide up to the front building plane, except circular driveways, which can be a maximum of 12 feet (circular driveways and turnarounds must have foliage of a minimum 3-foot height planted on the street side of the driveway to shield the pavement from street view).

These restrictions are appropriate, given the extensive study undertaken to identify the existing neighborhood character by the Neighbors of Montclair, and are necessary to maintain that existing character in the future.

Staff Report Presentation: Ms. Wade began the staff's presentation by distributing a staff exhibit packet to the Commission members, and circulating eight support letters and one opposition letter to the Commission.

Ms. Wade oriented the Commission to the location of the Montclair neighborhood on the east side of Tates Creek Road, bordered by Cooper Drive to the north, Montclair Drive to the south, and the University of Kentucky campus to the south and east. The neighborhood is located in the vicinity of the Mount Vernon and Chevy Chase neighborhoods, and The Enclave just to the south along Tates Creek Road. The Montclair neighborhood was platted in the 1930s, and it is comprised of four units. At that time, the Mount Vernon neighborhood had not yet developed, and that area was still part of the Berry Farm. In addition, Cooper Drive had not yet been extended, and it terminated in a dead end at the UK Agricultural Experiment Farm.

Ms. Wade stated that the Montclair neighborhood requested ND-1 overlay zoning in order to protect their existing single-family residential neighborhood. The neighborhood representatives indicated in their application that they believe that Montclair has an "enviable" location: physically close to UK, as well as major arterial roads, good schools, and convenient shopping areas. However, that location near UK also means that the neighborhood has recently experienced significant development pressure, which could cause a major change to the fabric of the neighborhood. The Montclair residents desire to maintain the character of their neighborhood, which they base on several features, including the platting of the lots and setbacks, and the style and construction materials of the homes.

Ms. Wade said that the purpose of the ND-1 overlay zone as defined by Article 29 of the Zoning Ordinance is to conserve the key features or visual and natural characteristics of a neighborhood. The ND-1 overlay is administered in the same way as conditional zoning restrictions; under ND-1 zoning, an applicant would apply to the Division of Building Inspection for a permit, and the Building Inspection staff would review the design standards for compliance.

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The Montclair neighborhood, Ms. Wade stated, indicated in their application that they met the criteria as outlined in Article 29 of establishing a need to protect the visual characteristics that give Montclair its distinct identity. In the last two years, the neighborhood conducted an architectural survey; completed a goal-setting process; and established a proposed set of 11 design standards. Ms. Wade provided a brief explanation of each of the standards, as listed in the staff report and on the agenda, and also referred to the revised staff recommendation. With regard to the proposed standard for exterior building materials, she said that 97% of the homes in Montclair currently meet the requirement. The staff is recommending an addition to that standard, as outlined in their revised recommendation based upon the Zoning Committee review, to exclude windows and doors, and their respective frames, so that more common materials like vinyl and aluminum could be used for those features. The staff is recommending, with regard to the proposed standard for the size of garages and accessory structures, that the roof height be measured from the finished garage floor. Regarding the proposed standard for front building features, the staff is recommending that the main entry door face a public street, rather than a primary street, because the Zoning Ordinance does not define "primary street." For proposed standard #9a, which refers to building setbacks, the staff is recommending that the range be changed to 30 – 35 feet, because the proposed 25-foot setback would be less restrictive than what is currently allowed by the underlying zoning along Montclair Drive. Allowing setbacks for 30-35 feet would maintain the existing R-1C setback and keep it consistent with other R-1C zoning throughout the county. The staff is recommending the addition of the phrase "of the principal structure" to proposed standard #10a, which refers to rear yard building setbacks. Ms. Wade said, with regard to the proposed standards for lot width, that the staff is suggesting adding a second standard to provide a maximum lot width on the specified streets, in order to prevent the combination of lots, which could lead to the construction of structures much larger than those that currently exist within the neighborhood. With regard to the proposed standards for landscaping requirements, the staff is recommending the deletion of the last line of that standard, which would require limiting front yard hedges to four feet in height, because it would be very difficult for the Division of Building Inspection to enforce such a restriction. Ms. Wade said, with regard to the proposed standards for off-street parking design, that the staff suggested deleting the restriction on loose aggregate or other gravel because those materials are already prohibited by Article 16 of the Zoning Ordinance.

Ms. Wade stated that the staff had completed an analysis of the non-conformities that the proposed design standards would create in the Montclair neighborhood. They considered front and rear yard setbacks; 10-foot garage setbacks; and driveways more than 10 feet wide. With regard to front yard setbacks, the staff found that 12.8% of the properties would not conform to the proposed requirement. For rear yard setbacks, 11.7% of the properties would be non-conforming. There would be 10.1%, or 18 properties, with non-conforming garages. With regard to the proposed driveway standards, 14% of the properties in the neighborhood would not comply with a 10-foot driveway requirement.

Ms. Wade stated that the 2007 Comprehensive Plan recommends overlays for the protection of neighborhoods. The Montclair neighborhood has been working on their ND-1 proposal for over two years. The result of that work is the submission of the proposed design standards, which they believe will protect and conserve the character of their neighborhood. The staff agrees that this proposed ND-1 overlay zone is in agreement with the Comprehensive Plan and is compatible with its Goals and Objectives, particularly Goal 15, which relates to overlay zoning. The Montclair neighborhood has done a full design character study, established preservation goals, and proposed appropriate design standards for their neighborhood. Ms. Wade stated that the staff is recommending approval of the revised design standards, for the reasons as listed in the staff report and on the agenda. She concluded the staff's presentation by displaying several photographs of the Montclair neighborhood, depicting the typical housing types, setbacks, and other features characteristic of the neighborhood.

Commission Question: Ms. Roche-Phillips asked Ms. Wade to further explain the information she had provided with regard to non-conformities. Ms. Wade did so, referring to the four maps and reviewing the percentages, and noted that the staff believes that these percentages of new non-conforming lots would be low if this zone change is approved.

Mr. Owens asked, with regard to the proposed design standard for garages and accessory structures, if there would still be front, rear, and side yard setback requirements for those structures. Ms. Wade answered that the standard setback requirements for the underlying zoning would still apply. Mr. Owens asked if the proposed standard restricting building height would refer to new additions to principal structures only, and not accessory structures. Ms. Wade responded that that was correct.

Neighborhood Presentation: Stan Harvey, 1229 Scoville Road, was present representing the Montclair neighborhood. He stated that the neighborhood representatives initially met to discuss the merits of both H-1 and ND-1 overlay zoning. Many of the residents believed that H-1 zoning might be too restrictive, so they decided to pursue an ND-1 designation. They then began the process by meeting with the Division of Historic Preservation and outlining the requirements of the Zoning Ordinance.

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Mr. Harvey stated that the Montclair neighborhood is comprised of approximately 180 lots, although not all of the lots currently have structures on them. He said that one of the Zoning Ordinance requirements for instituting an ND-1 zone refers to fostering civic pride, and noted that one of the testaments to that pride in the Montclair neighborhood is the revitalization of the dormant neighborhood association as part of this effort. That has allowed the residents the opportunity to come together for other activities as well.

Mr. Harvey said that, while the Montclair neighborhood is in an excellent location, that high demand has led to a series of "threshold events" as a result of development pressure. As a result, the residents became concerned about recent construction and new development in the area. Beginning in May 2008, five meetings were held specifically to discuss items related to ND-1 zoning. The residents conducted the required property owner survey, and then held separate neighborhood meetings to discuss the results of the survey and take a formal vote on whether or not to pursue ND-1 zoning. Having determined that there was sufficient support to proceed, they formed a committee to draft the proposed design standards. The committee members met with staff in the Divisions of Planning and Building Inspection to refine the initial 18 proposed standards, which were revised to the 11 standards presented to the Commission today. The committee believes that, having undergone that revision process, the standards currently proposed represent the core issues of concern to Montclair residents. Once the proposed standards had been agreed upon, the newly-revitalized neighborhood association established leaders for each street in the neighborhood. The proposed standards were mailed and emailed to residents, and a neighborhood meeting was held in June of this year to vote to request initiation of the ND-1 overlay zone by the Planning Commission.

Mr. Harvey stated that the proposed design standards are intended to help protect the character of Montclair by achieving the following goals:

1. Preserve the existing neighborhood land use, which is entirely single-family residential;
2. Encourage new construction and additions that are compatible with the predominant massing, height and architectural character of the neighborhood, but recognizing differences in individual streets;
3. Utilize site planning standards reflective of the existing pattern of yards, setbacks and garages; and
4. Encourage community interaction and safety for pedestrians and bicyclists.

The Zoning Ordinance requires documentation of both the historical nature and the current conditions, so the Montclair committee worked with the Division of Historic Preservation to develop a form documenting 18 survey items for each property in the neighborhood. The committee then analyzed, and completed a detail sheet for, each of the 180 properties. Mr. Harvey stated that some of the features documented through the survey included architectural styles; exterior materials; height; roof types; garages; visible additions and features; lot sizes; and lot widths. It became evident, through the survey process, that the properties in the neighborhood could be divided into the eastern and western portions, which shared some design similarities.

Mr. Harvey stated, with regard to the proposed design standards, that the standard restricting exterior building materials is intended to ensure adequate maintenance of the neighborhood, as well as compatibility with the existing structures. The Montclair residents used the Chevy Chase ND-1 standards as guidelines, since there are many similarities between the building stock in Chevy Chase and Montclair. The proposed standard for roof line and shape was a result of that review; many of the newly-constructed, incompatible structures in Chevy Chase had very different roof lines from the existing homes. The landscaping requirement standard was proposed to address safety issues on Cooper Drive and Tates Creek Road. Due to the large amount of traffic on those streets, there were concerns that drivers backing out of driveways would be unable to see cyclists or pedestrians because of the height of fences or landscaping. The other concern about landscaping related to the construction of fence types that might be incompatible with the existing wood or stone fencing in the neighborhood. The committee proposed a design standard to set a minimum number of window and door openings per building face after reviewing the Chevy Chase design standards and the Infill & Redevelopment regulations, in order to avoid large blank walls. The restriction on outdoor stairs was proposed in order to prohibit the construction of "dormitory-style" structures. Mr. Harvey stated, with regard to the proposed standard requiring a minimum 10-foot setback from the front building plane for garages, that it was intended to prevent garages from becoming the dominant feature at street level. The committee proposed the standard to regulate lot widths in order to prevent the subdivision of some of the very large lots on Tates Creek Road, Eldemere Road, and Summit Drive. The residents are agreeable to the staff's suggestion to add a maximum lot width as well. Mr. Harvey said that the proposed standard limiting building height generated a great deal of discussion among the Montclair residents, due to the difference in existing building heights. The western portion of the neighborhood is comprised of mainly one and one-and-a-half story structures, while the eastern portion is predominantly two and two-and-a-half story homes. The committee believed that it would be appropriate, therefore, to propose a 35' height limit in the east, and a 30' limit in the western portion of the neighborhood. Mr. Harvey said that the proposed standard to regulate building setbacks was intended to preserve visual continuity of the streetscapes, and to match the existing structures on each street. With regard to rear yard setbacks, the committee determined that it would not be appropriate to propose a 2/3 setback such as is in place under the Chevy Chase ND-1 standards, because several of the lots in the neighborhood, particularly along the east-west streets, are very shallow. Those home-

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owners would, therefore, be overly limited in terms of the possibility of constructing a rear addition. On the north-south streets, the opposite problem was discovered. Due to the great depth of the lots, allowing a 2/3 setback would provide homeowners with the opportunity to build very large structures in their rear yards, which would not be compatible with the rest of the neighborhood. The committee proposed the current standard in order to allow an addition on shallower lots, while restricting the size of additions on deeper lots. With regard to the proposed standard for off-street parking design, Mr. Harvey said that several of the streets in Montclair have restricted on-street parking because of their proximity to UK. The committee's intent was to recognize those conditions near the University, while setting some standards about parking and driveway size on the other streets in the neighborhood.

Citizen Support: Deborah Tatum, 654 Montclair Drive, stated that the Montclair residents do not want their neighborhood to undergo the same types of alterations as the Elizabeth Street area, which is also located near the UK campus. She said that the home closest to the KET building on Cooper Drive has been altered in such a fashion that she would consider it a dormitory, and she does not believe such alterations are in keeping with the character of the Montclair neighborhood.

Ms. Tatum stated that, four to five years ago, several Montclair residents became concerned about the possibility of the construction of townhomes in the neighborhood. They reconstituted the neighborhood association as the Neighbors of Montclair in order to protect their properties from the development pressure that comes as a result of their proximity to UK. Ms. Tatum said that she believes that the Planning Commission has a mandate to help protect existing neighborhoods from such encroachment.

Ms. Tatum noted that there were several Montclair residents who were in support of this request, but had to leave the meeting early today. She added that Jim Cornish, who had been instrumental in the creation of the proposed standards, was unable to be present today due to a death in his family.

Kathy Simon, 1233 Scoville Road, stated that she been involved with the Montclair ND-1 process since the beginning. She said that it had been very gratifying to meet other residents in the neighborhood as part of the survey process, and to design and refine the proposed standards. Ms. Simon also noted that she would like to commend Mr. Harvey and his staff for the work they had done as part of this process.

Ms. Simon stated that the Montclair neighborhood is truly diverse, which is one of its greatest assets. The residents comprise every age group from young married couples to seven residents who have owned their properties for more than 40 years, including several multi-generational residents. She noted that not every home in Montclair is owner-occupied, and that the ND-1 process was not intended to exclude renters.

Ms. Simon noted that the Montclair residents are particularly concerned about the use of the existing BCTC property on Cooper Drive following the relocation of that institution to its new facility. They are concerned about the possible effects on their neighborhood should the University decide to use that property for additional student housing.

Virginia White, 1218 Summit Drive, stated that she loves the Montclair neighborhood, and believes that it is an excellent area in which to raise a family. With regard to the proposed design standard for exterior building materials, she said that the committee requested hardiboard (cementitious fiberboard) siding, rather than vinyl, due to its hardness and mold and weather resistance.

Tom Bulleit, 760 Montclair Drive, said that he is a 31-year resident of the Montclair neighborhood. He said that the close proximity of the UK campus can be considered an advantage to residents in Montclair, but it also creates issues with student renters, traffic, and pedestrian safety. Mr. Bulleit added that he would like to thank and commend everyone who worked on the ND-1 project.

Tip Richmond, 1235 Summit Drive, stated that he is concerned about preserving the uniqueness and diversity of the Montclair neighborhood, given its proximity to the UK campus. He stated that this request for ND-1 zoning complies with the recommendations of the 2007 Comprehensive Plan, particularly Goal 15, which is, "To preserve, protect and enhance the character and quality of existing neighborhoods;" Objective A, which reads, "To retain the character, identity and appearance of vital, successful residential and non-residential areas;" and Objective H, which reads, "To encourage innovative design, planning, and development solutions that are consistent with neighborhood needs and character."

Todd Johnson, Homebuilders Association of Lexington, stated that he was neither in support of or opposition to this ND-1 request. He thanked Mr. Harvey and Mr. King for allowing his organization to participate in this process.

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Mr. Johnson stated that HBAL has several concerns about the proposed design guidelines. They believe that the allowable list of external building materials is too prohibitive, and it might be confining to homeowners. HBAL is also concerned that any homeowner seeking an exception to the standards must essentially complete a zone change process. They are aware that an expedited process is in place, but they are unclear about the specific requirements of that process. HBAL is also concerned about the proposed standards concerning fencing, landscaping, and height limits on accessory structures.

Mr. Johnson said that, in addition to their specific concerns about the proposed design standards, HBAL is unclear about the status of projects that are under contract at the time of approval of this proposed rezoning but might not meet the new standards. They do not believe that a homeowner should have to stop their construction process mid-stream and wait for the approval process to be completed. Mr. Johnson concluded by requesting that, should the Commission choose to approve this request, they would consider changing the process for granting exceptions to the design standards.

Jeff Foxx, 1213 Scoville Road, stated that he was mostly in favor of the proposed ND-1 zoning. He believes that the neighborhood does need protection, but he is concerned about the proposed design standard for exterior building materials. He said that he owns one of the smallest homes on Scoville Road, and he has considered building on a small addition in the rear of the home. If he does choose to construct an addition, Mr. Foxx would like to use vinyl siding, because he believes that it would look odd to have a brick addition on a vinyl house. He requested that the Commission consider adding a phrase to the proposed standards to allow new construction to match the existing materials of the structure.

Citizen Objections: Kevin Compton, 646 Cooper Drive, stated that he has some concerns about the proposed guideline restricting roof pitch. He recently completed an addition to his home which, while it complements the home and fits with the character of the neighborhood, would not meet the proposed standards. Mr. Compton said that he does not want to limit other homeowners' ability to construct additions to their homes.

Katie Yunker, 809 Cooper Drive, stated that she believes that the proposed ND-1 overlay zoning is "wrong-headed," because there is no common, unifying theme in the Montclair neighborhood. The neighborhood was built over a 25-year period, in a variety of styles. Ms. Yunker said that one of the most appealing attributes of the neighborhood is that all of the homes look different. She added that, if she had wanted to live in a "cookie-cutter" neighborhood with design standards, she would have chosen a newer subdivision like Andover. Ms. Yunker stated that the last time that a majority of the Montclair neighborhood came together to agree upon a standard, it was to insert a deed restriction barring African-Americans from living in the neighborhood, unless they were residing there as a domestic servant.

Ms. Yunker said that the only existing character of Montclair is its diversity. She believes that most, if not all, of the homes in the neighborhood would violate at least one of the proposed design standards; in fact, her own home would be in violation of several of the standards. Ms. Yunker stated that she is concerned that the standard restricting building materials does not include several traditional building materials, including stucco and cedar shakes, but includes cementitious fiberboard siding. She believes that the standard prohibiting exterior stairs is unnecessary, since the underlying single-family zoning in the neighborhood should prohibit structures from being used for dormitory-style housing. Ms. Yunker added that she believes that some specifications need to be added to the proposed standard for building height, since the language, as proposed, is ambiguous. She is also concerned about whether or not driveways are considered as part of the allowable front parking area.

Victoria Graff, 1234 Scoville Road, stated that she is opposed to the proposed ND-1 zoning, as are her neighbors, Bill and Judy Ransdell, for whom she would be speaking as well. She read the following letter into the record of the meeting, which was also signed by the Ransdells:

"We believe that our neighbors are responsible citizens and are capable of maintaining and improving their homes in a desirable manner. There is no need for more restrictions."

Ms. Graff stated that there are already too many restrictions in the Montclair neighborhood, including the prohibition against on-street parking while BCTC's classes are in session from August through May, which is in effect from 8 a.m. to 7 p.m. each day. She said that, if the proposed design standards are approved, she will also be prohibited from enlarging her driveway, which results in her family having to move their cars frequently in order to avoid getting a ticket.

Ms. Graff stated that the Ransdells are interested in constructing an addition to their home, but they are concerned that the proposed design standards would remove that possibility due to the restrictions on height and roof pitch. They believe that they should be able to construct a second story.

With regard to the proposed design standard for exterior building materials, Ms. Graff stated that she believes that vinyl siding should be an allowable building material. She said that limiting the allowable exterior materials

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to a short list might result in the inability to use a new material that might be in character with the existing structure.

Ms. Graff said that she respects the efforts of the Montclair residents to protect the character of the neighborhood, but she believes that there are too many proposed standards, and that they are too restrictive. She stated that the Montclair neighborhood is a "hodgepodge" of housing styles, but it seems like the proposed standards are intended to make everything look the same. She is also concerned about the possible effects of the proposed ND-1 overlay on the resale value of her home, and how it might affect her ability to construct an addition to her home for her elderly mother.

Susan Dombrowski, 700 Montclair Drive, stated that she believes that the proposed design standards are far too restrictive. She is concerned that, because many of the homes in the neighborhood have aluminum siding, the owners might not be able to replace that material if a portion is damaged. Ms. Dombrowski does not believe that it would be fair to require a homeowner to replace all of the siding on their home if just a portion is damaged. She asked that, if the Planning Commission should choose to approve this request, they institute some guidelines for modifications to the proposed standards.

Richard Murphy, attorney, was present representing Robert Williams, the owner of the home at 702 Cooper Drive and 1212 Kastle Road, which is widely known as the "international house." He stated that his client understands the intent of the proposed design standards, but has some concerns about several of the standards because they could impact his property. His client's house was built in the 1940s, from concrete block, and he has resided there for 38 years. Mr. Murphy noted that the design of the house has been cited as a good example of the desired diversity of the housing stock in Montclair, but many of the home's features would be in violation of the proposed design standards.

Mr. Murphy stated that, although his client's home is often cited as an example of Montclair's diversity, it would be prohibited under the proposed design standards. The proposed ND-1 zoning, therefore, would actually eliminate some of the diversity in the neighborhood. Although Mr. Murphy's client owns an adjoining lot along Kastle Road, he does not propose to use that property to construct dormitory-style housing. Mr. Murphy stated that he had recently worked on the panel convened by the mayor to address the issue of student housing around the University, the result of which was a text amendment that restricts the number of unrelated persons who can live in one single-family residence. The Zoning Ordinance, therefore, would prohibit any such construction in the Montclair neighborhood. Mr. Murphy also noted that residents near his client's property do not need to be concerned about the possible construction of townhouses on this client's property, because the R-1C zoning in place in Montclair would prohibit it.

Mr. Murphy displayed a copy of the 1936 plat of Montclair subdivision, identifying the two lots currently owned by his client. He said that the second lot, which is vacant, is only 50 feet wide. There is a large range on lot widths in the neighborhood, with some lots on Bates Creek as wide as 134 feet; lot widths varying from 100 feet to 120 feet on Eldemere Road; 80 feet to 100 feet on Summit Drive and Kastle Road; and 50 feet wide on Scoville Road. Mr. Murphy said that the proposed guidelines would impact the narrower lots differently from the larger lots. He stated that, in 1982, his client had filed an amended plat for his two lots in order to relocate the building lines. The second lot, which faces Kastle Road, is carved out of the rear of the Cooper Drive lot and has a restricted building area. In 1983, the Planning Commission approved a plat to reduce the building line on that lot to 30'. Mr. Murphy's client is concerned that the proposed standards would increase the building line back to 35', which could severely restrict his ability to build on that lot. Mr. Murphy noted that several other lots in that portion of Montclair had had the building lines similarly adjusted in order to provide more buildable area. He displayed several photographs of some of those properties. Mr. Williams has designed a house to construct on the vacant lot, which would require a 30' building line in order to accommodate the structure.

With regard to the proposed standard restricting garage setbacks, Mr. Murphy said that his client is particularly concerned, due to a large embankment at the front of his property on Kastle Road. The grade change along Kastle Road ranges from 4' to 5' just behind the sidewalk. In order to accommodate the grade change, the homes in that area of Kastle Road either have rear detached garages, or garages attached at the front building plane, but located under the house to take advantage of the topography. Mr. Murphy stated that, of the 25 lots on Kastle Road, six lots have attached garages at the same plane as the front of the house. He noted that it is very difficult to set a garage back 10' from the front building plane given the topography, which therefore limits a garage option which is already part of the fabric of the neighborhood. Many people who are buying houses would prefer to have an attached garage, but it would be very difficult and costly to attain in the Montclair neighborhood. Mr. Murphy's client believes that the proposed standard for garages should be removed, and residents should be allowed to construct a garage at the same plane as the front of the house.

Mr. Murphy stated that his client is also concerned about the staff's proposal to limit maximum lot widths to 100'. His existing house has 164' feet of frontage along Cooper Drive, which would become non-conforming, but has

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a very narrow frontage on Kastle Road. Mr. Murphy said his client realizes that standard is intended to prevent further subdivision of lots in the neighborhood, but it could become problematic in the future to construct a house on a large corner lot. Since the lots in that portion of the neighborhood could not be further subdivided due to the lot requirements of the R-1C zone, Mr. Murphy's client would request that that proposed standard be removed. He reiterated that his client would like for the Planning Commission to allow garages at the front building plane and a 30' setback along Kastle Road.

Mr. Murphy read into the record of the meeting the following excerpt from Article 29-1 of the Zoning Ordinance:

“...to give a harmonious appearance to structures which stabilize neighborhoods and maintain their character, be protected, conserved, and preserved.”

“Encourage construction that will lead to continuation, conservation, and improvement in a manner appropriate to the scale and physical character of the original buildings. Assure that new construction is in harmony with the scale and physical character of the original buildings of the neighborhood through the use of design standards.”

Mr. Murphy concluded his remarks by reiterating that his client simply wants the opportunity to construct a home on his vacant lot similar to those already existing along Kastle Road.

Robert Williams, 702 Cooper Drive, stated that he has several concerns about the proposed design standards. He believes that many of those proposed standards were “directly aimed at his house.”

Mr. Williams believes that the proposed standard to restrict outdoor staircases might be a fire code restriction, as it could limit movement out of the structure in case of fire. He noted that, since he has property with two street frontages, he could not continue a wall built along the front of the Cooper Drive property to the Kastle Road property, as front walls would not be allowed there. Mr. Williams also believes that the proposed restriction on roof pitch was intended to prevent property owners in Montclair from adding on to their homes. He concluded that he believes that all of the proposed restrictions amount to discrimination.

Neighborhood Rebuttal: Mr. Harvey stated that he respects the opinions of his neighbors who oppose the proposed rezoning to ND-1. The neighborhood's ND-1 committee has prided itself on its commitment to the process, as well as its openness to refinement of the design standards and more appropriate ways of meeting the intent of the Zoning Ordinance.

With regard to the specific concerns about the proposed standards, Mr. Harvey stated that there is a provision in place to allow a homeowner to match the roof pitch of an addition to the existing structure. He said that circular driveways would not be counted as a parking area; the parking standard would only be applied to dedicated parking pads, not to turnarounds or driveways. With regard to the proposed standard restricting roof height, the committee believes that 30' and 35' would allow a sufficient addition to any structure in the neighborhood.

Mr. Harvey stated that he appreciated the comments about the diversity of the homes in the Montclair neighborhood, and he understands the conundrum. The goal of the Montclair committee was to establish standards that provide an extra layer of protection for the neighborhood, but to not be overly prescriptive. The committee supports the concerns of the residents with regard to the measurements for roof height, and would be open to suggestions for changes to that language. The committee also understands the residents' concerns about the expedited ND-1 exception process, but Mr. Harvey noted that that issue is not limited to Montclair, but applies to all ND-1 areas within Lexington-Fayette County. The committee chose ND-1 zoning over H-1 in part to provide residents with the opportunity to request an exception. They do not want the process to be onerous, and they expect that exceptions will be made, while still maintaining compatibility with the character of the neighborhood.

Mr. Harvey said that there were many questions during the ND-1 process about vinyl siding, given that several of the homes in the neighborhood have such siding. The committee met with an insurance agent to inquire as to the replacement value after a fire or other such incident, and they would like to stress that replacement of existing vinyl following an incident would still be allowed under the proposed standards. Their intent was to regulate the use of vinyl in large-scale additions or new construction. Mr. Harvey concluded by stating that the Montclair committee is open to suggestions for resolution of any of the issues that were brought forth during this hearing, noting that they believe that this is an important step for the Planning Commission to take in support of one of the city's historic neighborhoods.

Citizen Rebuttal: There were no citizens who wished to make rebuttal comments at this time.

Staff Rebuttal: Ms. Wade stated that the Planning Commission and Council had adopted an amendment to the Zoning Ordinance in early 2009 that outlines the amendment/modification process for ND-1 restrictions. She dis-

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played an exhibit detailing that process on the overhead (Article 6-7). Ms. Wade noted that that process has a similar timeline to a Board of Adjustment appeal.

With regard to HBAL's concerns about a construction project being delayed midway through, Ms. Wade said that the permit process will require a builder to be specific about what types of building materials will be used, so the builder should be aware at the time of the permit application process what types of materials would be unacceptable.

Ms. Wade stated, with regard to Mr. Johnson's assertion that 30% of the garages in the neighborhood would not conform to the proposed design standards, that the staff's calculation indicated that 10% of the garages are at the same building plane as the principal structure.

With regard to the residents' concerns about measuring the height of a structure, Ms. Wade said that such measurements are defined by the Zoning Ordinance, which requires that the measurement be taken from the surrounding grade, and that the measurements should be averaged for grade changes.

Ms. Wade noted that any homeowner who currently has vinyl siding will be able to replace the siding if it is damaged, or if the resident would like to replace or maintain the existing vinyl siding. The proposed standards are meant to address new additions or construction, not what is currently in place.

Ms. Wade said, with regard to Mr. Murphy's statements about lot width, that the staff would recommend changing the language of #7b to read: "The maximum width for all lots on Summit Drive, Eldemere Road, and Tates Creek Road is 100' as measured at the building line (except corner lots)." She stated that this standard is intended to apply to the streets in the eastern half of the neighborhood only, not all of the lots.

Planning Commission comments: Mr. Brewer stated that he would like to compliment Mr. Harvey and the neighborhood on the good preparation they have done. He noted that one of the difficulties for the Planning Commission is that it is impossible to please everyone, so he tries to decide how to please the most people while doing the least damage. Mr. Brewer said that, with due respect to the opponents, he believes that ND-1 zoning would be appropriate for the Montclair neighborhood. The expedited ND-1 process would allow residents a vehicle for exceptions, and many of the concerns voiced by the residents at this hearing would be "grandfathered."

Mr. Cravens stated that he had driven through the Montclair neighborhood prior to this hearing, and noted that it was well-kept and he saw no homes that were out of character for the area. He said that, if the neighborhood has been kept in that fashion for many years without overlay zoning, he does not see the need for it now.

Mr. Cravens said that the Zoning Committee had had some discussion about this request, and he was adamant at that time about allowing vinyl siding as an accepted material. He stated that vinyl and aluminum siding can be replaced directly over the existing wood framing, but many of the proposed acceptable siding materials would require the replacement of the wood framing. In addition, new lead-based paint removal regulations require an inspection by the EPA if more than 40 square feet of a structure's exterior are removed. Mr. Cravens said he believes that it is inappropriate to require the use of expensive siding materials, while still allowing concrete-block foundations to be visible below. With regard to the question of "grandfathering," Mr. Cravens stated that he believes that the proposed standards for exterior materials on additions are unclear. He noted that there are new building materials being introduced all the time, and he does not believe it is appropriate to limit the allowable building materials to such a small list.

Mr. Cravens said that he could possibly support this proposed ND-1 zoning if standard #1a is removed, since he does not believe that homeowners should be left "at the mercy of" the building inspector who interprets the request for a building permit.

Mr. Owens stated that he was in agreement with Mr. Brewer. He believes that many of the concerns about the proposed ND-1 zoning had been worked out over the two-year history of this project. Mr. Owens said that he believes that the proposed standard restricting the use of vinyl siding is appropriate, and he would support a motion for approval of the standards as proposed.

Ms. Roche-Phillips stated that she respects that this was a comprehensive process, with a great deal of neighborhood cooperation. She believes that the provisions that are in place for exceptions are adequate. Additionally, she stated that she felt that the Commission should respect the neighborhood's wishes to restrict the use of vinyl siding in the area.

Motion: A motion was made by Ms. Roche-Phillips and seconded by Mr. Owens to approve MAR 2010-10, with the staff alternative design standards, adding the words "except corner lots" at the end of proposed standard

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#7b and removing those same words from the first line of that proposed standard, for the reasons provided by staff.

Discussion of Motion: Mr. Cravens stated that he would like to amend the motion to allow vinyl as an accepted building material, since there is so much existing vinyl siding in the neighborhood. There was no second to the amendment to the motion.

Action: Ms. Roche-Phillips motion carried, 6-1 (Cravens opposed; Beatty, Blanton, Copeland, and Holmes absent.)

Chair Comments: Ms. Richardson thanked the Montclair residents for their hard work and the time spent preparing for this hearing, and for participating in the process.

## VI. COMMISSION ITEMS

1. APPOINTMENT OF FLOODPLAIN APPEALS COMMITTEE MEMBERSHIP – Mr. King stated that the staff is requesting the reappointment of Fred Eastridge, Bill Hodges, and Doug Mynear for committee membership by the Commission.

Action: A motion was made by Mr. Wilson, seconded by Mr. Brewer, and carried 7-0 (Beatty, Blanton, Copeland and Holmes absent) to re-appoint the three members to the Floodplain Appeals Committee.

## VII. STAFF ITEMS

- VIII. AUDIENCE ITEMS – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early re-hearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

## IX. MEETING DATES FOR NOVEMBER, 2010

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	November 4, 2010
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	November 4, 2010
<b>Subdivision Items Public Meeting</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers.....	<b>November 11, 2010</b>
<b>Zoning Items Public Hearing</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers.....	<b>November 18, 2010</b>
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	November 24, 2010

- X. ADJOURNMENT – There being no further business, Chairwoman Richardson declared the meeting adjourned at 4:52 p.m.

TLW/TM/BJR/BS/src